

Application No.: 09/775,281

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REMARKS**DOUBLE PATENTING**

Claims 7-8 were provisionally rejected based on obviousness type double patenting with respect to Serial No. 09/775,262. Applicant will address this issue if and when the rejection is formally applied.

35 U.S.C. 102(e)

Claim 9 was rejected under 35 U.S.C.102(e) as being anticipated by Linberg. Applicant respectfully traverses the rejection. As the Examiner is well aware, in order for a reference to anticipate a claim each and every element of claim must be disclosed but the reference. Contrary to the Examiner's assertion that Linberg discloses each element, the reference fails to disclose "a manufacturing computer server at an implantable medical device manufacturing site . . . being in communication with the implantable medical device manufacturing assembly facility to initiate manufacture of a build-to-order implantable medical device." As such, the rejection is unsupported by the art and should be withdrawn.

Lingren teaches a system and method for invoicing a user, e.g., a hospital, after a medical device has been implanted. That is, the IMD communicates information about itself to an invoicing computer. The invoicing computer determines where the IMD was implanted and then proceeds to generate an invoice to collect funds. In addition, the reference does teach an inventory control module. However, all this module does is identify a deficiency in an inventory and initiate a request to forward already manufactured products to a given user. There is no disclosure to initiate the manufacture of a given IMD based on need, previous product use or any other criteria. Lingren necessarily assumes an existing inventory from the manufacturer to forward to a user. Likewise there is no disclosure that an IMD will be manufactured on a build to order basis. As such, the reference cannot anticipate the claim.

35 U.S.C. 103(a)

Claims 7 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lingren. Applicant respectfully traverses this rejection. Applicant asserts that for reasons similar to the above discussion, the Examiner has failed to establish a primae

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facie case of obviousness. However, the reference is disqualified under 35 U.S.C. 103(c). The present application, serial number 09/775,281 and US Patent 6,385,593 were, at the time the present invention was made, commonly owned by Medtronic, Inc. MPEP 706.02(I).

In view of the foregoing remarks, it is believed that the application is in condition for allowance and notice of the same is respectfully requested.

Respectfully submitted,

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